

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 86

HOUSE BILL 2151

AN ACT

AMENDING SECTION 20-259.01, ARIZONA REVISED STATUTES; RELATING TO MOTOR
VEHICLE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-259.01, Arizona Revised Statutes, is amended to
3 read:

4 20-259.01. Motor vehicle liability policy; uninsured optional;
5 underinsured optional; subrogation; medical
6 payments liens; definitions

7 A. Every insurer writing automobile liability or motor vehicle
8 liability policies shall make available to the named insured thereunder and
9 by written notice offer the insured and at the request of the insured shall
10 include within the policy uninsured motorist coverage which extends to and
11 covers all persons insured under the policy, in limits not less than the
12 liability limits for bodily injury or death contained within the policy. The
13 selection of limits or rejection of coverage by a named insured or applicant
14 on a form approved by the director is valid for all insureds under the
15 policy. THE COMPLETION OF SUCH FORM IS NOT REQUIRED WHERE THE INSURED
16 PURCHASES SUCH COVERAGE IN AN AMOUNT EQUAL TO THE LIMITS FOR BODILY INJURY
17 OR DEATH CONTAINED IN THE POLICY. The offer need not be made in the event
18 of the reinstatement of a lapsed policy or the transfer, substitution,
19 modification or renewal of an existing policy. At the request of the
20 insured, the insured may purchase and the insurer shall then include within
21 the policy uninsured motorist coverage that extends to and covers all persons
22 insured under the policy in any amount up to the liability limits for bodily
23 injury or death contained within the policy but not less than the limits
24 prescribed in section 28-4009.

25 B. Every insurer writing automobile liability or motor vehicle
26 liability policies shall also make available to the named insured thereunder
27 and shall by written notice offer the insured and at the request of the
28 insured shall include within the policy underinsured motorist coverage which
29 extends to and covers all persons insured under the policy, in limits not
30 less than the liability limits for bodily injury or death contained within
31 the policy. The selection of limits or rejection of coverage by a named
32 insured or applicant on a form approved by the director shall be valid for
33 all insureds under the policy. THE COMPLETION OF SUCH FORM IS NOT REQUIRED
34 WHERE THE INSURED PURCHASES SUCH COVERAGE IN AN AMOUNT EQUAL TO THE LIMITS
35 FOR BODILY INJURY OR DEATH CONTAINED IN THE POLICY. The offer need not be
36 made in the event of the reinstatement of a lapsed policy or the transfer,
37 substitution, modification or renewal of an existing policy. At the request
38 of the insured, the insured may purchase and the insurer shall then include
39 within the policy underinsured motorist coverage that extends to and covers
40 all persons insured under the policy in any amount authorized by the insured
41 up to the liability limits for bodily injury or death contained within the
42 policy.

43 C. Any insurer writing automobile liability or motor vehicle liability
44 policies may make available the coverages required by subsections A and B of
45 this section to owners and operators of motor vehicles that are used as

1 public or livery conveyances or rented to others or that are used in the
2 business primarily to transport property or equipment. The provisions of
3 subsections A and B of this section shall not preclude an insurer writing
4 automobile liability or motor vehicle liability policies in this state from
5 requiring that all motor vehicles that are owned by or registered to the
6 named insured and that are insured by the same insurer or group of insurers
7 under a common management have the same limits of coverage for uninsured and
8 underinsured motorist coverage in amounts as selected or rejected by the
9 named insured.

10 D. "Uninsured motor vehicles", subject to the terms and conditions of
11 that coverage, includes any insured motor vehicle if the liability insurer
12 of the vehicle is unable to make payment on the liability of its insured,
13 within the limits of the coverage, because of insolvency.

14 E. "Uninsured motorist coverage", subject to the terms and conditions
15 of that coverage, means coverage for damages due to bodily injury or death
16 if the motor vehicle that caused the bodily injury or death is not insured
17 by a motor vehicle liability policy that contains at least the limits
18 prescribed in section 28-4009. For the purposes of uninsured motorist
19 coverage, an uninsured motorist does not include a person who is insured
20 under a motor vehicle liability policy that complies with section 28-4009.

21 F. Any payment made under the bodily injury liability portion of a
22 motor vehicle liability policy insuring the motor vehicle that caused the
23 bodily injury or death in an amount equal to or less than the per person or
24 per occurrence bodily injury limits of that policy, regardless of the number
25 of persons receiving payments, precludes any payment under the uninsured
26 motorist coverage based upon the fault of the person who is insured under the
27 motor vehicle liability policy.

28 G. "Underinsured motorist coverage" includes coverage for a person if
29 the sum of the limits of liability under all bodily injury or death liability
30 bonds and liability insurance policies applicable at the time of the accident
31 is less than the total damages for bodily injury or death resulting from the
32 accident. To the extent that the total damages exceed the total applicable
33 liability limits, the underinsured motorist coverage provided in subsection
34 B of this section is applicable to the difference.

35 H. Uninsured and underinsured motorist coverages are separate and
36 distinct and apply to different accident situations. Underinsured motorist
37 coverage shall not provide coverage for a claim against an uninsured motorist
38 in addition to any applicable uninsured motorist coverage. If multiple
39 policies or coverages purchased by one insured on different vehicles apply
40 to an accident or claim, the insurer may limit the coverage so that only one
41 policy or coverage, selected by the insured, shall be applicable to any one
42 accident. If the policy does not contain a statement that informs the
43 insured of the insured's right to select one policy or coverage as required
44 by this subsection, within thirty days after the insurer receives notice of
45 an accident, the insurer shall notify the insured in writing of the insured's

1 right to select one policy or coverage. For the purposes of this subsection,
2 "insurer" includes every insurer within a group of insurers under a common
3 management.

4 I. Insurers that make payments for damages to insureds for uninsured
5 motorist coverage may subrogate and sue for reimbursement of the total amount
6 of the payments in the name of the insured against any uninsured motorist
7 responsible for the damages to the insured.

8 J. Any automobile liability or motor vehicle liability insurer that
9 makes a payment under the medical payments coverage of a motor vehicle
10 insurance policy to or on behalf of any insured for an injury that arises out
11 of an accident that occurs after December 31, 1998 may have a lien against
12 any amount in excess of five thousand dollars that is paid to or on behalf
13 of that insured under the medical payments coverage of the policy for that
14 accident. The insurer shall compromise the lien in a fair and equitable
15 manner. In order to perfect a lien granted pursuant to this subsection,
16 within sixty days after issuing a payment that is more than five thousand
17 dollars to the insured under medical payments coverage, the insurer or the
18 insurer's authorized representative shall record in the office of the
19 recorder of the county in which the accident occurred a written statement
20 that sets forth the name and address of the insured as they appear in the
21 records of the insurer, the name and address of the insurer at the insurer's
22 principal office in this state, the amount claimed pursuant to this
23 subsection and, to the best of the insurer's knowledge, the names and
24 addresses of all persons, firms and corporations and their insurance carriers
25 that the insured or the insured's legal representative alleges are liable for
26 damages arising from the accident. Within five days after recording the
27 lien, the insurer shall also mail a copy of the lien, postage prepaid, to the
28 insured and to each person, firm and corporation and their insurance carriers
29 alleged to be liable for damages at the address given in the statement. The
30 recording of the lien is notice of the lien to all persons, firms and
31 corporations that are liable for damages regardless of whether they are named
32 in the lien. The recorder shall endorse on the lien recorded pursuant to
33 this subsection the date and hour of receipt and all facts that are necessary
34 to indicate that the lien has been recorded. The lien may be amended to
35 reflect payments to the insured made after the lien is recorded. Within
36 thirty days after the lien is satisfied, the lienholder shall issue and
37 record a release of the lien.

38 K. Any common law prohibition against assignments of causes of action
39 for personal injuries is abrogated to the extent provided in subsection I of
40 this section.

41 L. An insurer is not required to offer, provide or make available
42 coverage conforming to this section in connection with any general commercial
43 liability policy, excess policy, umbrella policy or other policy that does
44 not provide primary motor vehicle insurance for liabilities arising out of

1 the ownership, maintenance, operation or use of a specifically insured motor
2 vehicle.

3 M. If an insured makes a bodily injury or death claim under uninsured
4 or underinsured motorist coverage based on an accident that involved an
5 unidentified motor vehicle and no physical contact with the motor vehicle
6 occurred, the insured shall provide corroboration that the unidentified motor
7 vehicle caused the accident. For the purposes of this subsection,
8 "corroboration" means any additional and confirming testimony, fact or
9 evidence that strengthens and adds weight or credibility to the insured's
10 representation of the accident.

APPROVED BY THE GOVERNOR APRIL 23, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2003.

Passed the House February 10, 2003

Passed the Senate April 16, 2003

by the following vote: 56 Ayes,

by the following vote: 30 Ayes,

0 Nays, 3 Not Voting

1 Vacancy

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

0 Nays, 0 Not Voting

Ken Flenett
President of the Senate

Charmine Bullington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17 day of April, 2003

at 1:30 o'clock P. M.

Sandra Chamberlayne
Secretary to the Governor

Approved this 23 day of

April, 2003,

at 2¹⁰ o'clock P. M.

Jon R. Arpa
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2003,

at 4:07 o'clock P. M.

Janice K. Brewer
Secretary of State

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